

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

In re)	
Latoya Steward)	
Debtor)	
)	
James Robinson, et al,)	Case No. 4:14-cv-01094-RWS
Appellants,)	
)	
Vs.)	
)	
Latoya L. Steward)	
Appellee.)	

APPELLEE’S MOTION TO STRIKE

COMES NOW Appellee, Latoya Steward, and moves this Court to strike certain portions of the record and brief Appellants filed in support of their brief seeking reversal of the bankruptcy court below and for her motion states as follows:

1. On August 15, 2014 Appellants filed their brief along with an Exhibit 1 and multiple appendices.
2. The following pages of Appellants’ Exhibit and Appendix were not submitted to the Bankruptcy Court nor is there any proof that the Bankruptcy Court reviewed or relied upon them prior to the entering the orders on appeal: Appellants’ Exhibit 1 (allegedly being the Articles of Incorporation and Certificate of Incorporation of Critique Services L.L.C.); Permanent Injunction and Consent Decree entered on December 29, 2003 (App. 1221-1225) and Settlement Order and Court Order entered July 29, 2007 (App. 1228-1240.)
3. Fed. R. App. P 10(a) provides in pertinent part that the record on appeal consists of the original papers and exhibits filed in the lower court. An appellate court can only consider the papers and exhibits before the district court and facts and arguments in an appellate brief

corresponding to extraneous evidence cannot be considered and should be struck. C.N. v. Willmar Pub. Sch., Indep. Sch. Dist. No. 347, 591 F.3d 624, 629, n. 4 (8th Cir. 2010). See also Bath Junkie Branson, L.L.C. v. Bath Junkie, Inc., 528 F.3d 556, 560 (8th Cir. 2008).

4. Appellee has contemporaneously filed a Memorandum in support of her motion and incorporates it by reference herein.

Wherefore Appellee Latoya Steward respectfully requests the Court enter an order granting its motion to Strike Appellants Exhibit 1, Appellants' Appendix 1221-1225 and 1228-1240, as well as the references and inferences thereto in Appellants' Brief.

RESPECTFULLY SUBMITTED

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was filed electronically through the Court's ECF system on this 23rd day of October, 2014 and thereafter served on the below listed parties by either ECF or US Postal Service, Pre-Paid First Class Mail.

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